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SCHOOL TRUST FUND AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to school trust funds.

Highlighted Provisions:

This bill:

- ▶ amends the contents of the Trust Distribution Account within the Uniform School Fund;
- ▶ amends provisions related to the funding of the School LAND Trust Program;
- ▶ amends the powers and duties of the School and Institutional Trust Fund Office in regard to the School and Institutional Trust Fund Management Account; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 53D-1-203**, as enacted by Laws of Utah 2014, Chapter 426
- 53F-2-404**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-9-201**, as renumbered and amended by Laws of Utah 2018, Chapter 2



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **53D-1-203** is amended to read:

30 **53D-1-203. Funding of office operations.**

31 (1) There is created an enterprise fund known as the School and Institutional Trust
32 Fund Management Account.

33 (2) The account is funded by money deposited into the account as provided in
34 Subsection (3).

35 (3) The director shall deposit into the account an amount of money from the [~~earnings~~
36 ~~from~~] trust fund assets equal to the annual appropriation that the Legislature makes to the
37 office, to pay for the office's operating costs.

38 (4) (a) The office may use money in the account to pay for the office's operating costs.

39 (b) If the amount of money deposited into the account under Subsection (3) in any
40 fiscal year exceeds the amount required by the office during that fiscal year to fund its
41 operations, the office [~~shall distribute that excess money proportionately to the various funds~~
42 ~~established for the beneficiaries of land grants under the enabling act, based on the balances of~~
43 ~~those funds as of June 30~~] shall apply the excess amount against the subsequent fiscal year
44 appropriation.

45 (5) (a) [~~Before distributing earnings from trust fund assets, the~~] The office may deduct
46 from trust fund assets:

47 (i) the cost for any audit, risk management, consulting, equipment, legal[, and]
48 services, software, research, or custodial [~~costs~~] services; and

49 (ii) management fees incurred in managing the trust fund assets.

50 (b) The costs and fees described in Subsection (5)(a) are separate from and in addition
51 to the office's operating costs that are paid from the account.

52 Section 2. Section **53F-2-404** is amended to read:

53 **53F-2-404. School LAND Trust Program -- Purpose -- Distribution of funds --**
54 **School plans for use of funds.**

55 (1) As used in this section:

56 (a) "Charter agreement" means an agreement made in accordance with Section
57 **53G-5-303** that authorizes the operation of a charter school.

58 (b) "Charter school authorizer" means the same as that term is defined in Section

59 [53G-5-102.](#)

60 (c) "Charter trust land council" means a council established by a charter school
61 governing board under this section.

62 (d) "Council" means a school community council or a charter trust land council.

63 (e) "District school" means a public school under the control of a local school board
64 elected under Title 20A, Chapter 14, Nomination and Election of State and Local School
65 Boards.

66 (f) "School community council" means a council established at a district school in
67 accordance with Section [53G-7-1202.](#)

68 (2) There is established the School LAND (Learning And Nurturing Development)
69 Trust Program to:

70 (a) provide financial resources to public schools to enhance or improve student
71 academic achievement and implement a component of a district school's school improvement
72 plan or a charter school's charter agreement; and

73 (b) involve parents and guardians of a school's students in decision making regarding
74 the expenditure of School LAND Trust Program money allocated to the school.

75 [~~(3) (a) The program shall be funded each fiscal year:~~]

76 [~~(i) from the Trust Distribution Account created in Section [53F-9-201](#); and]~~

77 [~~(ii) in the amount of the sum of the following:~~]

78 [~~(A) the distributions from the investment of money in the permanent State School
79 Fund deposited to the Trust Distribution Account on or about July 15 each year; and]~~

80 (3) (a) The program shall be funded on or about July 15 each fiscal year from the
81 Ĥ→ [deposit] deposits ←Ĥ made in the prior fiscal year to the Trust Distribution Account
81a created in Section

82 [53F-9-201.](#)

83 [~~(B) interest accrued on the Trust Distribution Account in the immediately preceding
84 fiscal year.~~]

85 (b) The program shall be funded as provided in Subsection (3)(a) up to an amount
86 equal to 3% of the funds provided for the Minimum School Program, pursuant to this chapter,
87 each fiscal year.

88 (c) (i) The Legislature shall annually [~~allocate, through~~] make an appropriation to the
89 State Board of Education[~~, a portion of~~] from the Trust Distribution Account created in Section

90 53F-9-201 to be used for:

91 (A) the administration of the School LAND Trust Program; and

92 (B) the performance of duties described in Section 53E-3-514.

93 (ii) Any unused balance remaining from an amount appropriated under Subsection
94 (3)(c)(i) shall be deposited in the Trust Distribution Account for distribution to schools in the
95 School LAND Trust Program.

96 (4) (a) The State Board of Education shall allocate the money referred to in Subsection
97 (3) annually as follows:

98 (i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the
99 product of:

100 (A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the
101 Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

102 (B) the total amount available for distribution under Subsection (3);

103 (ii) charter schools shall receive funding equal to the product of:

104 (A) charter school enrollment on October 1 in the prior year, divided by enrollment on
105 October 1 in the prior year in public schools statewide; and

106 (B) the total amount available for distribution under Subsection (3); and

107 (iii) of the funds available for distribution under Subsection (3) after the allocation of
108 funds for the Utah Schools for the Deaf and the Blind and charter schools:

109 (A) school districts shall receive 10% of the funds on an equal basis; and

110 (B) the remaining 90% of the funds shall be distributed to school districts on a per
111 student basis.

112 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
113 the State Board of Education shall make rules specifying a formula to distribute the amount
114 allocated under Subsection (4)(a)(ii) to charter schools.

115 (ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:

116 (A) consult with the State Charter School Board; and

117 (B) ensure that the rules include a provision that allows a charter school in the charter
118 school's first year of operations to receive funding based on projected enrollment, to be
119 adjusted in future years based on actual enrollment.

120 (c) A school district shall distribute its allocation under Subsection (4)(a)(iii) to each

121 school within the school district on an equal per student basis.

122 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
123 State Board of Education may make rules regarding the time and manner in which the student
124 count shall be made for allocation of the money under Subsection (4)(a)(iii).

125 (5) To receive its allocation under Subsection (4):

126 (a) a district school shall have established a school community council in accordance
127 with Section [53G-7-1202](#);

128 (b) a charter school shall have established a charter trust land council in accordance
129 with Subsection (9); and

130 (c) the school's principal shall provide a signed, written assurance that the school is in
131 compliance with Subsection (5)(a) or (b).

132 (6) (a) A council shall create a program to use its allocation under Subsection (4) to
133 implement a component of the school's improvement plan or charter agreement, including:

134 (i) the school's identified most critical academic needs;

135 (ii) a recommended course of action to meet the identified academic needs;

136 (iii) a specific listing of any programs, practices, materials, or equipment which the
137 school will need to implement a component of its school improvement plan to have a direct
138 impact on the instruction of students and result in measurable increased student performance;
139 and

140 (iv) how the school intends to spend its allocation of funds under this section to
141 enhance or improve academic excellence at the school.

142 (b) (i) A council shall create and vote to adopt a plan for the use of School LAND
143 Trust Program money in a meeting of the council at which a quorum is present.

144 (ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust
145 Program money, the plan is adopted.

146 (c) A council shall:

147 (i) post a plan for the use of School LAND Trust Program money that is adopted in
148 accordance with Subsection (6)(b) on the School LAND Trust Program website; and

149 (ii) include with the plan a report noting the number of council members who voted for
150 or against the approval of the plan and the number of council members who were absent for the
151 vote.

152 (d) (i) The local school board of a district school shall approve or disapprove a plan for
153 the use of School LAND Trust Program money.

154 (ii) If a local school board disapproves a plan for the use of School LAND Trust
155 Program money:

156 (A) the local school board shall provide a written explanation of why the plan was
157 disapproved and request the school community council who submitted the plan to revise the
158 plan; and

159 (B) the school community council shall submit a revised plan in response to a local
160 school board's request under Subsection (6)(d)(ii)(A).

161 (iii) Once a plan has been approved by a local school board, a school community
162 council may amend the plan, subject to a majority vote of the school community council and
163 local school board approval.

164 (e) A charter trust land council's plan for the use of School LAND Trust Program
165 money is subject to approval by the:

166 (i) charter school governing board; and

167 (ii) charter school's charter school authorizer.

168 (7) (a) A district school or charter school shall:

169 (i) implement the program as approved;

170 (ii) provide ongoing support for the council's program; and

171 (iii) meet State Board of Education reporting requirements regarding financial and
172 performance accountability of the program.

173 (b) (i) A district school or charter school shall prepare and post an annual report of the
174 program on the School LAND Trust Program website each fall.

175 (ii) The report shall detail the use of program funds received by the school under this
176 section and an assessment of the results obtained from the use of the funds.

177 (iii) A summary of the report shall be provided to parents or guardians of students
178 attending the school.

179 (8) On or before October 1 of each year, a school district shall record the amount of the
180 program funds distributed to each school under Subsection (4)(c) on the School LAND Trust
181 Program website to assist schools in developing the annual report described in Subsection
182 (7)(b).

183 (9) (a) The governing board of a charter school shall establish a council, which shall
184 prepare a plan for the use of School LAND Trust Program money that includes the elements
185 listed in Subsection (6).

186 (b) (i) The membership of the council shall include parents or guardians of students
187 enrolled at the school and may include other members.

188 (ii) The number of council members who are parents or guardians of students enrolled
189 at the school shall exceed all other members combined by at least two.

190 (c) A charter school governing board may serve as the council that prepares a plan for
191 the use of School LAND Trust Program money if the membership of the charter school
192 governing board meets the requirements of Subsection (9)(b)(ii).

193 (d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or
194 guardians of students enrolled at the school shall be elected in accordance with procedures
195 established by the charter school governing board.

196 (ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves
197 as the council that prepares a plan for the use of School LAND Trust Program money.

198 (e) A parent or guardian of a student enrolled at the school shall serve as chair or
199 cochair of a council that prepares a plan for the use of School LAND Trust Program money.

200 (10) The president or chair of a local school board or charter school governing board
201 shall ensure that the members of the local school board or charter school governing board are
202 provided with annual training on the requirements of this section.

203 (11) If the amount of money prescribed for funding the School LAND Trust Program
204 under this section is less than or greater than the money appropriated for the School LAND
205 Trust Program, the appropriation shall be equal to the amount of money prescribed for funding
206 the School LAND Trust Program in this section, up to a maximum of an amount equal to 3%
207 of the funds provided for the Minimum School Program.

208 (12) The State Board of Education shall distribute the money appropriated in
209 Subsection (11) in accordance with this section and rules established by the board in
210 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

211 Section 3. Section **53F-9-201** is amended to read:

212 **53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

213 (1) The Uniform School Fund, a special revenue fund within the Education Fund,

214 established by Utah Constitution, Article X, Section 5, consists of:

215 (a) distributions derived from the investment of money in the permanent State School
216 Fund established by Utah Constitution, Article X, Section 5;

217 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform
218 Unclaimed Property Act; and

219 (c) all other constitutional or legislative allocations to the fund, including revenues
220 received by donation.

221 (2) (a) There is created within the Uniform School Fund a restricted account known as
222 the Trust Distribution Account.

223 (b) The Trust Distribution Account consists of:

224 (i) deposits from investment earnings of the State School Fund based on the average
225 of:

226 [(+)] (A) 4% of the average market value of the permanent State School Fund based on
227 an annual review each ~~[July of]~~ fiscal year using the past 12 consecutive quarters ending the
228 prior fiscal year; and

229 [(+)] (B) the prior fiscal year's distribution ~~[from the Trust Distribution Account]~~ as
230 described in Section 53F-2-404, increased by prior year changes in the percentage of student
231 enrollment growth and in the consumer price index[-];

232 (ii) all the interest earned on the account; and

233 (iii) appropriations under Subsection 53F-2-404(3)(c)(i) less interest earned in the
234 account and any unspent appropriations described in Subsection 53F-2-404(3)(c)(ii) from the
235 prior fiscal year.

236 (c) If the interest earnings exceed the appropriation under Subsection (2)(b)(iii), the
237 amount deposited under Subsection (2)(b)(i) will be reduced by the excess amount.

238 (3) Notwithstanding Subsection (2)(b), the ~~[distribution]~~ earnings deposited under
239 Subsection (2)(b)(i) may not exceed 4% of the [average] prior fiscal year end market value of
240 the permanent State School Fund [over the past 12 consecutive quarters].

241 (4) The School and Institutional Trust Fund Board of Trustees created in Section
242 53D-1-301 shall:

243 (a) annually review the amount of the distribution ~~[of]~~ from the Trust Distribution
244 Account; and

245 (b) make recommendations, if necessary, to the Legislature for changes to the formula
246 described in Subsection (2)(b).

247 [~~(5) (a) Upon appropriation by the Legislature, the director of the School and
248 Institutional Trust Fund Office created in Section 53D-1-201 shall place in the Trust
249 Distribution Account funds for:]~~

250 [~~(i) the administration of the School LAND Trust Program as provided in Section
251 53F-2-404;~~]

252 [~~(ii) the performance of duties described in Section 53E-3-514;~~]

253 [~~(iii) the School and Institutional Trust Fund Office; and]~~

254 [~~(iv) the School and Institutional Trust Fund Board of Trustees created in Section
255 53D-1-301;~~]

256 [~~(b) The Legislature may appropriate any remaining balance for the support of the
257 public education system.]~~

258 Section 4. **Effective date.**

259 This bill takes effect July 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel